HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4975 of 2007

Dated:12.03.2007

Between:

Pinnapuralla Anjaneyulu.

…Petitioner.

and

The Government of Andhra Pradesh and others.

…Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.4975 of 2007

ORDER:

The Andhra Pradesh Housing Board intended to construct a colony in the outskirts of Visakhapatnam. For this purpose, 43 acres of land, belonged to the Government at Pothinamallayapalem Village of Visakhapatnam Rural Mandal, was handed over to the Housing Board by the Mandal Revenue Officer, through a delivery receipt, dated 16.01.1986. Sy.No.43 admeasuring 0.96 cents, classified as 'Vagu Poramboke', was one such item. After taking possession of the land, the Housing Board constructed houses. One Sri Kotha Jagannadha Rao S/o Kotha Satyannarayana, was allotted a house, which was constructed on the land covered by Sy.No.43. The petitioner purchased the same through a registered document, dated 27.06.1997. He intended to sell the property to meet his expenditure. However, a notification issued under

Section 22-A of the Registration Act (for short "the Act"), by the Government of Andhra Pradesh in G.O.Ms.No.585, dated 04.05.2005, came in the way of the petitioner. In that notification, the Government required the Sub-Registrar not to entertain any document, in respect of

the properties mentioned therein. The land in Sy.No.43 admeasuring 0.96 cents is included in the notification. The petitioner challenges the same.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

The petitioner feels aggrieved by the notification, dated 04.05.2005, issued by the Government in exercise of powers under Section 22-A of the Act. This Court held the said provision to be *ultra virus*. It was struck down by the Hon'ble Supreme Court in ***State of Rajasthan v. Basanth Nahata***[1]**.** Therefore, the very basis for the impugned notification ceases to exist. Even otherwise, inclusion of land in Sy.No.43 is absolutely without any basis. The reason is that, on its accord, the Government handed over the said land to the Housing Board and after construction of houses thereon, it sold the houses to the intending and eligible purchasers. The petitioner purchased the house constructed on plot No.1 from the original allottee, 10 years after the allotment. Hence, the right of the petitioner to transfer, or otherwise enjoy the property purchased by him under document, dated 27.06.1997, cannot be effected in any way by the impugned notification, either on facts, or in law.

The Writ Petition is allowed. It is directed that as and when the petitioner presents any document before the 5th respondent, in relation to the property in plot No.1, it shall be processed in accordance with law, without any reference to the impugned notification. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.12-03-2007.

Note:Furnish C.C. in one week.

(B/o)

GJ

[1] AIR 2005 SC 3401 = (2005) 12 SCC 77